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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/066,908 | 02/04/2002 | Gary V. Montgomery | CG-716 | 5252 |
| 27868 | 7590 | 10/17/2003 | EXAMINER | |
| JOHN F. SALAZAR MIDDLETON & REUTLINGER 2500 BROWN & WILLIAMSON TOWER LOUISVILLE, KY 40202 | | | NGO, LIEN M | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3727 | |

DATE MAILED: 10/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/066,908

Applicant(s)

Montgomery, Gary V.

Examiner

Lien Ngo

Art Unit

3727



— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Aug 8, 2003
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5, 9, 30, 31, 36, and 38 is/are pending in the application.
- 4a) Of the above, claim(s) 36 and 38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 9, 30, and 31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2 6) ☐ Other:

DETAILED ACTION

1. Applicant's election without traverse of claims 1-3, 5, 9, 30, 31, 36 and 38 in Paper No. 5 is acknowledged. Because applicant did not distinctly and specifically point out the species and the subspecies that is elected. Claims 1-3, 5, 9, 30 and 31 read on Species II – fig. 6, Subspecies A –fig. 2, and Subspecies D –fig. 9). However, claims 36 and 38 read on Species II – fig. 6, Subspecies B –fig. 3, and Subspecies D –fig. 9. Examiner assumes that Species II – fig. 6, Subspecies A –fig. 2, and Subspecies D –fig. 9 (claims 1-3, 5, 9, 30 and 31) have been elected. Therefore, claims 36 and 38 have been withdrawn from further consideration as being non-elected claimed invention.

Oath/Declaration

2. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

The specification to which the oath or declaration is directed has not been adequately identified. See MPEP § 601.01(a).

It does not identify the city and either state or foreign country of residence of each inventor. The residence information may be provided on either on an application data sheet or supplemental oath or declaration.

It does not identify the mailing address of each inventor. A mailing address is an address at which an inventor customarily receives his or her mail and may be either a home or business address. The mailing address should include the ZIP Code designation. The mailing address may be provided in an application data

sheet or a supplemental oath or declaration. See 37 CFR 1.63(c) and 37 CFR 1.76.

Drawings

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: for example: the stop mechanism "200". A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

5. The abstract of the disclosure is objected to because terms "is shown and described" should avoid in the abstract. Correction is required. See MPEP § 608.01(b).

6. The disclosure is objected to because of the following informalities:

In the specification, page 8, line 8, "ribs 250" should be --ribs 256--.

Appropriate correction is required.

Claim Objections

7. Claims 1 and 30 are objected to because of the following informalities: In claims 1 and 30, line 4, "said skirt" should be --said top wall-- . Appropriate correction is required.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It cannot be determined whether claims 9 is pending or canceled (see the Remark in page 007 of the amendment A).

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1, 5, 9 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by King et al. (5,769,254). King discloses, in figs. 1-9, a threaded closure-container package comprising a container having a shoulder 12, a neck 14 having an external thread 15; a closure 20 having an internal thread 24 and a rotary seal 25; a one on-direction stop mechanism having a closure lug 28 operably engaging a container lug 18; and a child resistance mechanism 17 having the lug 28 operably engaging a lug (17).

13. Claims 1-3, 5, 9 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by DeFelice (4,053,077). DeFelice discloses, in figs. 1-3, a threaded closure-container package comprising a container having a shoulder 10, a neck 40 having an external thread 12; a closure 24 having an internal thread 26 and a rotary seal 38 tapered radially outward depending from an inner surface of the closure top wall and sealingly engaging the inner surface of the container neck; a one on-direction stop mechanism having a closure lug (the end thread 26) operably engaging a container lug 14; and a child resistance mechanism having a closure lug 28 operably engaging a container lug 16.

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claim 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeFelice in view of Ochs et al. (5,346,082).

DeFelice does not disclose a tamper indicating band having a plurality of internal ratchets operably engaging a plurality of external ratchets extending from the container neck.

Ochs et al. teach a closure tamper indicating band having a plurality of internal ratchets operably engaging a plurality of external ratchets extending from a container neck.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the inventions was made to provide the DeFelice closure-container package with a tamper indicating band, as taught by Ochs, in order to provide a TI band to the package.

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Krueger and Luker teach closures having child resistance mechanism and IT bands.

King teaches having child resistance and stop mechanism, and IT bands.

Gach et al., Montgomery et al., Miceli et al. teach child resistance and stop mechanism.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIEN TM NGO whose telephone number is 703-305-

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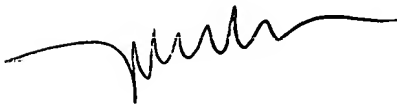
0294. The examiner can normally be reached on Monday through Friday from 8:30 AM -6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LEE YOUNG can be reached on 703-308-2572. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Lien Ngo

September 7, 2003

A handwritten signature in black ink, appearing to be 'Lien Ngo', with a stylized, wavy line extending from the end.